

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KATIE F. LAPP,
Plaintiff

v.

GEORGE NYE, *et al.*,
Defendants

: No. 1:23-CV-0419
:
:
: (Judge Munley)
:
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:
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ORDER

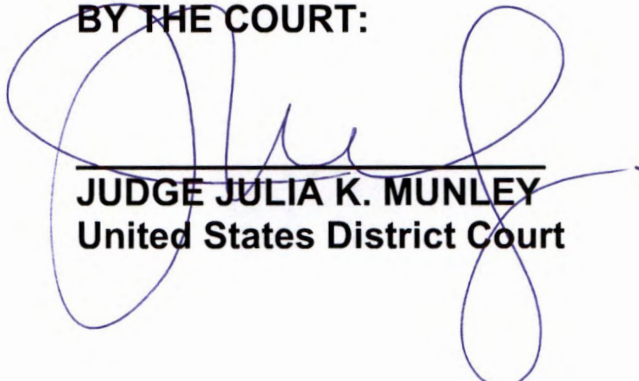
AND NOW, in accordance with the accompanying Memorandum, **IT IS**
ORDERED THAT:

1. Defendants' motion to dismiss (Doc. 16) is **GRANTED** in part and **DENIED** in part, as follows:
 - a. Lapp's Eighth Amendment excessive force claim against defendant Whitmire is **DISMISSED** with prejudice for failure to state a claim upon which relief may be granted.
 - b. Lapp's claims against defendant Burns are **DISMISSED** with prejudice for lack of personal involvement and thus for failure to state a claim upon which relief may be granted.
 - c. Lapp's individual capacity RLUIPA claims are **DISMISSED** with prejudice for failure to state a claim upon which relief may be granted.
 - d. Defendants' motion is **DENIED** in all other respects.
2. Lapp's Fourteenth Amendment procedural due process claim is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

3. Lapp's Eighth Amendment conditions-of-confinement claim is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.
4. The Clerk of Court is direct to terminate defendants Burns, Horrax, Weber, and Whitmire.
5. This case will proceed on the following Section 1983 causes of action: (1) First Amendment free exercise claims against defendants McCabe and Nye; and (2) official capacity RLUIPA claims against McCabe and Nye.

Date: 1/4/24

BY THE COURT:



JUDGE JULIA K. MUNLEY
United States District Court